

## THIRD DIVISION

[ G.R. No. 214326, July 06, 2020 ]

**ALASTAIR JOHN KANE, PETITIONER, VS. PATRICIA  
ROGGENKAMP, RESPONDENT,**

### D E C I S I O N

**LEONEN, J.:**

An acquittal from a charge of physical violence against women and their children is not a bar to the filing of a civil action for damages for physical injuries under Article 33 of the Civil Code if an acquittal was due to reasonable doubt, without any declaration that the facts upon which the offense arises are nonexistent.

This resolves the Petition for Review on Certiorari<sup>[1]</sup> filed by Alastair John Kane, assailing the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals.

The Court of Appeals reversed and set aside the Order<sup>[4]</sup> of the Regional Trial Court, Branch 214, Mandaluyong City, dismissing Patricia Roggenkamp's Complaint for Damages against Alastair John Kane. The Complaint, which was based on Article 33 of the Civil Code, was dismissed on the grounds of res judicata and lack of jurisdiction.

Alastair John Kane (Alastair John) and Patricia Roggenkamp (Patricia) are Australian citizens.<sup>[5]</sup> They met in January 2004 in Brisbane, Australia, and became lovers immediately.<sup>[6]</sup>

Patricia decided to put up a business in the Philippines, and eventually travelled with Alastair John to Manila. They settled in a condominium unit located in Paranaque City supposedly owned by Patricia.<sup>[7]</sup>

On March 30, 2006, an Information for violation of Republic Act No. 9262 or the Anti-Violence Against Women and Children Act of 2004 was filed against Alastair John, with Patricia as the private complainant. The case, docketed as Criminal Case No. 06-0413, was then raffled to Branch 260 of the Regional Trial Court of Paranaque City.<sup>[8]</sup>

According to Patricia, she and Alastair John attended a party hosted by her son, Ashley Richard Cayzer (Ashley Richard) on November 30, 2004. The next day, December 1, 2004, after they had just arrived at their residence at about 1:00 a.m., Patricia confronted Alastair John for allegedly looking at the underwear of other female guests at the party. Ignoring Patricia, Alastair John went on to lie down on the bed. Patricia then sat on a nearby chair.<sup>[9]</sup>

Alastair John, angered by Patricia's remarks, allegedly approached Patricia, lifted her

off the chair, and dropped her on the floor. Patricia further claimed that Alastair John punched her in the head, dragged her by the hair to the bed, and pushed her head against the pillow. Patricia fought back and, when she had the chance, ran to the bathroom and locked herself inside.<sup>[10]</sup>

The next day, on December 2, 2004, Patricia's son, Ashley Richard, visited his mother and saw her lying in bed in pain. Alastair John told Ashley Richard that his mother had too much liquor the night of the party and, when they arrived home, Alastair John tried to carry her to the bed. Unfortunately, he accidentally dropped her on the floor because the bed, which allegedly had wheels, moved.<sup>[11]</sup>

Ashley Richard then brought Patricia to the San Juan de Dios Hospital where she was prescribed painkillers for 12 days. After the trip to the hospital, Patricia went home to Alastair John. Their situation went back to being peaceful, and they even went on vacation from December 26, 2004 to January 1, 2005.<sup>[12]</sup>

On January 6, 2005, or merely five (5) days after, Alastair John allegedly verbally abused Patricia. He then left the next day, taking Patricia's car with him, as well as the keys to their Paranaque residence and another condominium unit in Pasig City where he stayed. Patricia, accompanied by her driver, went to the Pasig condominium unit and recovered possession of her car.<sup>[13]</sup>

On February 4, 2005, Patricia finally reported the incidents to the police. She explained that, prior to the December 1, 2004 incident, there were already prior incidents of abuse committed against her by Alastair John. After preliminary investigation, probable cause for violation of Republic Act 9262 or the Anti-Violence Against Women and their Children Act of 2004 was found against Alastair John.<sup>[14]</sup>

After trial, the Regional Trial Court, Branch 260, Paranaque City acquitted Alastair John on the ground of reasonable doubt.<sup>[15]</sup> The Paranaque trial court was of the opinion that Alastair John's account of the events—that he accidentally dropped Patricia on the floor while he was carrying her— was "in accord with human experience[,]"<sup>[16]</sup> while that of Patricia's was not. It further said that "if [Patricia] was really a victim of violence or abuse, she should have told the same to her son [Ashley Richard], especially because the latter, according to her, is a lawyer."<sup>[17]</sup> The Paranaque trial court more particularly said:

The Court noted that there was a heated altercation between the private complainant and the accused after they came from the birthday party of the former's son on December 1, 2004. Kane was accused of looking and peeping at the girls during the party. The Court is inclined to give credence to the version of the accused. The same is in accord with human experience. On the other hand[,], the version of Patricia is not in accord with human experience. She claimed that she was grabbed by the hair, hit her head and chest, neck, pelvic area and shoulder but the clinical abstract does not indicate any signs of physical violence. This court finds it unnatural why Patricia declared to the doctor that she accidentally fell on a marble floor. This is her same declaration to her son, Ashley. If she was really a victim of violence or abuse, she should have told the same to her son, especially because the latter, according to her,

is a lawyer. This court is also surprised why she did not leave the accused if it is true that he manhandled her. She could easily do those things because her relationship with the accused was that only of lovers and there was no marriage to protect and family to save. To reiterate, the version of Mr. Kane is shown by the parties' actuations after the date alleged in the information. They even celebrated Christmas in a beach resort with friends and with the accused playing Santa [Claus]. Noteworthy is the filing of the case almost one year after the alleged incident and after the parties started to have issues on property.<sup>[18]</sup>

**WHEREFORE,** due to reasonable doubt, the accused, ALASTAIR JOHN KANE, is hereby ACQUITTED of the crime [of] violation of Sec. 5(a) of R.A. 9262, penalized by Sec. 6 (a) of the said Act.

**SO ORDERED.**<sup>[19]</sup> (Emphasis in the original)

Thereafter, Patricia filed a Complaint for Damages based on Article 33 of the Civil Code before the Regional Trial Court of Mandaluyong City, praying for actual, moral and exemplary damages, and attorney's fees. Patricia argued that the right of action provided in Article 33 in cases of physical injuries is entirely separate and distinct from the criminal action earlier commenced against Alastair John.<sup>[20]</sup>

Further, she added that the civil actions for damages under Articles 32, 33, 34, and 2176 of the Civil Code, called independent civil actions, "are not deemed instituted with the criminal action and may be filed separately by the offended party even without reservation." Considering that Alastair John was acquitted on the ground of reasonable doubt, not because he wasn't the author of the act complained of, Patricia argued that he may still be held liable under Article 33 of the Civil Code.<sup>[21]</sup>

Opposing the civil action, Alastair John filed a Motion to Dismiss on the grounds of *res judicata* and improper venue.<sup>[22]</sup> Alastair John claimed that the dismissal of the criminal case barred the filing of the civil case, because the cases allegedly involved identical causes of action. He emphasized that the cases were both based on his alleged physical abuse of Patricia, a matter already found to be not "in accord with human experience."<sup>[23]</sup> With respect to the venue, Alastair John argued that it was improperly laid. The action for damages was a personal action, yet none of the parties resided in Mandaluyong City where the civil action was filed.<sup>[24]</sup>

In an April 20, 2009 Order, the Motion to Dismiss was denied by the 214th Branch of the Regional Trial Court, Mandaluyong City, then presided by Judge Edwin D. Sorongon.<sup>[25]</sup>

The trial court held that civil liability was not extinguished, because Alastair John's acquittal was based on reasonable doubt. Furthermore, the action filed by Patricia was an independent civil action which, together with the actions provided in Articles 32, 34, and 2176 of the Civil Code, is separate and distinct from the criminal action and may be enforced against an offender, separately or simultaneously, with his civil liability *ex delicto* under Article 100 of the Revised Penal Code. Finally, the trial court held that venue was properly laid because at the time of the filing of the civil complaint, Patricia was already residing in Mandaluyong City.<sup>[26]</sup> In the words of the trial court:

"The motion is unimpressive.

"While it is true that accused's (herein defendant) guilt in the criminal case had not been proven beyond reasonable doubt by the trial court in Paraiiaque City, the decision however did not state in clear and [un]equivocal terms that he did not commit the offense charged. Hence, impliedly the trial court of Paraiiaque acquitted him on reasonable doubt. Since civil liability is not extinguished in criminal cases if the acquittal is based on reasonable doubt[,] then the instant civil complaint must proceed. Civil liability arising from criminal and civil liability arising from Article 32, 33, 34 and 2176 quasi-delict for contract (Art. 31) are entirely separate and distinct from the criminal action that may be brought by injured party (*International Flavors and Fragrances, Inc. vs. Argon*, 364 SCRA. 792)[.]

"Even if the guilt of the accused has not been [satisfactorily] established, he is not exempted from civil liability which may be proved by preponderance of evidence only. This is the situation contemplated in Article 33 of the Civil Code where the civil action for damages is "for the same act or omission." Although the two actions have different purposes, the matters discussed in the civil case are similar to those discussed in the criminal case. However, the judgment in the criminal proceeding cannot be read in evidence in the civil action to establish any fact there determined, even though both actions involve the same act or omission.

The civil liability is not extinguished where acquittal is based on reasonable doubt (*Manantan vs. Court of Appeals*, 350 SCRA 387).

"An act or omission causing damage to another may give rise to two separate liabilities on the part of the offender, i.e., (1) civil liability *ex deli[c]to*, under Article 100 of the Revised Penal Code, and (2) independent civil liabilities, such as those (a) not arising from an act or omission complained of felony, e.g. culpa contractual or obligations arising from law under Article 32 of the Civil Code, intentional torts under Article 32 and 34, and culpa *aqiilkma* under Article 2176 of the Civil Code, or (b) where the injured party is granted a right to file an independent and distinct criminal action (Article 33, Civil Code). Either of these two possible liabilities may be enforced against the offender (separately and simultaneously) subject, however, to the caveat under Article 2177 of the Civil Code that the offended party cannot recover damages twice for the same act or omission or under both causes (*Cando, Jr. v. Isip*, G.R. No. 133978, November 12, 2002). However, a separate civil action based on subsidiary liability cannot be instituted during the pendency of the criminal case (Remedial Law, Herrera).

"Likewise, the ground of improper venue cannot be sustained. It was clarified by plaintiff that when she testified on May 22, 2007 and May 13, 2008 she considered herself a resident of Paraiiaque, however, in November 2008 and subsequently thereafter[,] she stayed at the condominium unit of her friend in. . . Mandaluyong City. In other words, at the time of the filing of the complaint on November 29, 2008 she was already residing in Mandaluyong City[.] Clearly, plaintiff for purposes of

this instant case is a resident of Mandaluyong City”<sup>[27]</sup> (*Emphasis in the original*)

With his Motion for Reconsideration having been denied by the trial court, Alastair John filed his Answer with Compulsory Counterclaim and Patricia, her Reply. Issues were joined and the case was set for pre-trial.<sup>[28]</sup>

In the meantime, Judge Sorongon was appointed Associate Justice of the Court of Appeals. Judge Ofelia Calo then acted as Presiding Judge of the Mandaluyong trial court<sup>[29]</sup> and, in the June 8, 2010 Order, dismissed the case *motu proprio* on the ground of *res judicata* and lack of jurisdiction.<sup>[30]</sup>

The Mandaluyong trial court said that, after “[taking] a closer look at the records extant to the instant case[,]”<sup>[31]</sup> any subsequent proceeding in the civil case would be “a waste of time”<sup>[32]</sup> since the decision of the Paranaque trial court had the effect of *res judicata*. Specifically, the Mandaluyong trial court declared that the Paranaque trial court’s evaluation of the parties’ respective evidence meant that “the act from which the civil liability might arise did not exist.”<sup>[33]</sup>

Consequently, the action based on Article 33 allegedly had no basis, and Patricia effectively committed forum shopping. Finally, it ruled that the Paranaque trial court’s decision in the criminal case already attained finality, thus depriving the Mandaluyong trial court of jurisdiction over Patricia’s Complaint for Damages.

A closer look at the records of the instant case filed by plaintiff would show that this court has no jurisdiction over the instant case.

The instant case which is for damages was also the subject matter of Criminal Case No. 06-413 litigated in another court, the Regional Trial Court of Paranaque City, Branch 260 wherein a Decision rendered by the said court acquitting the accused, the herein defendant.

Although the motion to dismiss filed by defendants on the grounds that the instant complaint is barred by prior judgment and improper venue was already denied for lack of merit in an Order dated 20 April 2009, the undersigned acting presiding judge deemed it proper to take a closer look at the records extant to the instant case considering that proceeding to the initial trial will just be a waste of time and any proceedings taken by the court will only be a nullity if the court has no jurisdiction because of the principle of *res judicata*.

Verily, the evaluation made by the RTC, Branch 260, Paranaque City of the criminal case giving credence to the version of the accused, which the Court perceived to be in accord with human experience, and pointing to factual circumstances and explaining why the version of Patricia is not in accord with human experience, is a clear showing that the act from which the civil liability might arise did not exist.

With the decision rendered by the RTC Branch 260, Paranaque City involving the same cause of action and relief sought, and identity [of] parties, this court perceives that the filing of the instant case in this